



## Bill Draft 2019-MLz-29: ABC Laws Modernization/PED Study.

2019-2020 General Assembly

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<b>Committee:</b>		<b>Date:</b>	February 4, 2019
<b>Introduced by:</b>		<b>Prepared by:</b>	Luke Gillenwater
<b>Analysis of:</b>	2019-MLz-29		Staff Attorney

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**OVERVIEW:** 2019-MLz-29 (i) requires the merger of ABC systems located in a county with two or more ABC systems; (ii) repeals the purchase-transportation permit requirement for spirituous liquor; (iii) requires the ABC Commission to submit a quarterly report on its process for obtaining a contract for State warehouse services; (iv) allows the purchase of individual bottles when placing a special order of spirituous liquor; (v) allows local ABC boards to charge a delivery fee when delivering spirituous liquor to mixed beverages permittees; (vi) allows local governments the option of operating ABC stores on Sundays; and (vii) allows spirituous liquor tastings at ABC stores; as recommended by a Program Evaluation Division report.

**BILL ANALYSIS:** 2019-MLz-29 does the following:

- **Section 1:** By June 30, 2021, and to ensure that no county has multiple ABC systems, all ABC systems located in a county with two or more ABC systems shall merge in accordance with the requirements set forth in G.S. 18B-703 ("Merger of local ABC operations").
- **Section 2:** Repeals the requirement that a person must acquire a purchase-transportation permit to purchase and transport more than eight liters of fortified wine, eight liters of spirituous liquor, or eight liters of the two combined. This repeal would mean that a person could purchase and transport any amount of fortified wine and spirituous liquor without acquiring a purchase-transportation permit.
- **Section 3:** G.S. 18B-204(a)(3) allows the ABC Commission to contract for the receipt, storage, and distribution of spirituous liquor at and from the State warehouse. The ABC Commission will openly bid for warehouse services before the expiration of the current contract in 2021. This section requires the ABC Commission, beginning October 15, 2019, to submit a quarterly report to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety detailing the progress made in bidding and selecting an independent contractor to provide services under G.S. 18B-204(a)(3).
- **Section 4:** Rules promulgated by the ABC Commission do not allow a person to place a special order for anything less than a case of spirituous liquor. This section would allow a customer to special order an individual bottle, and allow the ABC store to sell in store any bottles it receives in excess of what was purchased by the requesting customer. Additionally, the ABC Commission is authorized to establish and charge a fee to customers placing a special order.

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Legislative Drafting  
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# Draft

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- **Section 5:** Allows local ABC boards that deliver spirituous liquor to mixed beverages permittees to charge a delivery fee to the permittee in an amount sufficient to cover the actual costs incurred by the local board in making the delivery.
- **Section 6:** Allows a city or county to adopt an ordinance allowing ABC stores to be open and selling alcoholic beverages on Sundays.
- **Section 7:** Upon approval by a local ABC board, this section allows a holder of a spirituous liquor special event permit to give free tastings of its spirituous liquors at an ABC store.

**EFFECTIVE DATE:** Subsections (b) and (c) of Section 1 become effective June 30, 2021. Sections 2 and 4-7 become effective July 1, 2019. The remainder of the act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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BILL DRAFT 2019-MLz-29 [v.7]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)  
02/05/2019 01:23:38 PM

Short Title: ABC Laws Modernization/PED Study.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE MERGER OF ABC SYSTEMS LOCATED IN A COUNTY WITH TWO OR MORE ABC SYSTEMS; TO REPEAL THE PURCHASE-TRANSPORTATION PERMIT REQUIREMENT FOR SPIRITUOUS LIQUOR; TO REQUIRE THE ABC COMMISSION TO SUBMIT A QUARTERLY REPORT ON ITS PROCESS FOR OBTAINING A CONTRACT FOR STATE WAREHOUSE SERVICES; TO ALLOW THE PURCHASE OF INDIVIDUAL BOTTLES WHEN PLACING A SPECIAL ORDER OF SPIRITUOUS LIQUOR; TO ALLOW LOCAL ABC BOARDS TO CHARGE A DELIVERY FEE WHEN DELIVERING SPIRITUOUS LIQUOR TO MIXED BEVERAGES PERMITTEES; TO ALLOW LOCAL GOVERNMENTS THE OPTION OF OPERATING ABC STORES ON SUNDAYS; AND TO ALLOW SPIRITUOUS LIQUOR TASTINGS AT ABC STORES; AS RECOMMENDED BY A PROGRAM EVALUATION DIVISION REPORT.

The General Assembly of North Carolina enacts:

**PART I. REQUIRE CONSOLIDATION IN COUNTIES WITH MULTIPLE ABC SYSTEMS**

**SECTION 1.(a)** By June 30, 2021, to ensure that no county has multiple ABC systems, all ABC systems located in a county with two or more ABC systems shall merge in accordance with the requirements set forth in G.S. 18B-703. Notwithstanding the provisions of any local act, this section applies to all ABC systems. For purposes of this section, the term "ABC system" is as defined in G.S. 18B-101.

**SECTION 1.(b)** G.S. 18B-700 is amended by adding a new subsection to read:

"(c1) Limit on Number of Boards. – Notwithstanding any provision of law to the contrary, there shall be no more than one local ABC board in each county. If a jurisdiction holds an ABC store election under G.S. 18B-602(g), the establishment of ABC stores is approved, and the jurisdiction that held the election is located in a county where an ABC board is already in operation, the jurisdiction that held the election shall merge its local ABC board with the existing ABC board in accordance with G.S. 18B-703. Nothing in this subsection shall be construed as prohibiting a local ABC board from serving multiple cities, counties, or cities and counties."

**SECTION 1.(c)** G.S. 18B-703(e) reads as rewritten:

"(e) Dissolution. – With the approval of the Commission, and subject to the limitation set forth in G.S. 18B-700(c1), the cities or counties that have merged their ABC systems may



1 dissolve the merged operation at any time and resume their prior separate ~~operations~~operations  
2 or merge with a different ABC system in accordance with the requirements of this section."

3 **SECTION 1.(d)** Subsections (b) and (c) of this section become effective June 30,  
4 2021. The remainder of this section is effective when it becomes law.

5  
6 **PART II. REPEAL PURCHASE-TRANSPORTATION PERMIT REQUIREMENT FOR**  
7 **SPIRITUOUS LIQUOR**

8 **SECTION 2.(a)** G.S. 18B-303 reads as rewritten:

9 **"§ 18B-303. Amounts of alcoholic beverages that may be purchased.**

10 (a) Purchases Allowed. – Without a permit, a person may purchase at one time:

11 ...

12 (4) ~~Not more than eight liters of either fortified~~Fortified wine ~~or~~and spirituous  
13 ~~liquor, or eight liters of the two combined~~in any amount.

14 ...

15 (c) Greater Amounts. – Amounts of alcoholic beverages greater than those listed in  
16 ~~subdivisions~~subdivision (a)(3) ~~and (a)(4)~~ may be purchased with a purchase-transportation  
17 permit under G.S. 18B-403."

18 **SECTION 2.(b)** G.S. 18B-403 reads as rewritten:

19 **"§ 18B-403. Purchase-transportation permit.**

20 (a) Amounts. – With a purchase-transportation permit, a person may purchase and  
21 transport an amount of alcoholic beverages greater than the amount specified in G.S. 18B-303(a).  
22 A permit authorizes the holder to transport from the place of purchase to the destination within  
23 North Carolina indicated on the permit at one time the following amount of alcoholic beverages:

24 (1) A maximum of 100 liters of unfortified ~~wine;~~wine.

25 (2) ~~A maximum of 40 liters of either fortified wine or spirituous liquor, or 40~~  
26 ~~liters of the two combined; or~~

27 (3) ~~The amount of fortified wine or spirituous liquors specified on the~~  
28 ~~purchase-transportation permit for a mixed beverage permittee.~~

29 ...

30 (e) Restrictions on Permit. – A purchase may be made only from the store named on the  
31 permit. One copy of the permit shall be kept by the issuing person, one by the purchaser, and one  
32 by the store from which the purchase is made. The purchaser shall display his copy of the permit  
33 to any law-enforcement officer upon request. ~~A permit for the purchase and transportation of~~  
34 ~~spirituous liquor may be issued only by an authorized agent of the local board for the jurisdiction~~  
35 ~~in which the purchase will be made.~~

36 ...

37 (g) Special Occasion Purchase-Transportation Permit. – When a person holds a special  
38 occasion for which a permit under G.S. 18B-1001(8) or (9) is required, the  
39 purchase-transportation permit issued to him may provide for the storage at and transportation to  
40 and from the site of the special occasion of unfortified ~~wine, fortified wine, and spirituous~~  
41 ~~liquor~~wine for a period of no more than 48 hours before and after the special occasion. The  
42 purchase-transportation permit authorizes that person to transport only the amounts of those  
43 alcoholic beverages authorized by subsection (a). The Commission may adopt rules to govern  
44 issuance of these extended purchase-transportation permits."

45 **SECTION 2.(c)** This section becomes effective July 1, 2019, and applies to fortified  
46 wine and spirituous liquor purchased on or after that date.

47  
48 **PART III. ABC COMMISSION/QUARTERLY REPORT ON PROCESS FOR**  
49 **OBTAINING A CONTRACT FOR STATE WAREHOUSE SERVICES**

50 **SECTION 3.(a)** Beginning October 15, 2019, and quarterly thereafter, the ABC  
51 Commission shall submit a written report to the chairs of the Joint Legislative Oversight

1 Committee on Justice and Public Safety detailing the progress made in bidding and selecting an  
 2 independent contractor for the receipt, storage, and distribution of spirituous liquor at and from  
 3 the State warehouse in accordance with G.S. 18B-204(a)(3). The report required under this  
 4 section shall include all of the following:

- 5 (1) The schedule for developing and issuing the Request for Proposal (RFP),  
 6 including detailed explanations as to how the Commission is meeting the  
 7 milestones identified on the schedule.
- 8 (2) An identification of State agencies, departments, and other entities providing  
 9 the Commission with technical assistance on RFP development and contract  
 10 negotiations, including a detailed description of the assistance that is being  
 11 provided.
- 12 (3) A description of the Commission's consultation with local ABC boards, as that  
 13 term is defined in G.S. 18B-101, to ensure the boards' concerns and  
 14 expectations are addressed during the RFP development and contract  
 15 negotiations.
- 16 (4) A copy of the RFP when it is released for bid.
- 17 (5) A copy of the final contract entered into pursuant to G.S. 18B-204(a)(3).
- 18 (6) An implementation schedule for transitioning from the existing contract for  
 19 services described in G.S. 18B-204(a)(3) to the new contract.

20 **SECTION 3.(b)** The reporting requirement set forth in subsection (a) of this section  
 21 expires upon the earlier of the date of the award of the contract for services described in  
 22 G.S. 18B-204(a)(3) or January 1, 2022.

#### 23 24 **PART IV. ABC SPECIAL ORDERS/ALLOW PURCHASE OF INDIVIDUAL BOTTLES**

25 **SECTION 4.(a)** G.S. 18B-800 reads as rewritten:

##### 26 **§ 18B-800. Sale of alcoholic beverages in ABC stores.**

27 ...

28 (c) Commission Approval. – ~~No~~Except as otherwise provided in subsection (c1) of this  
 29 section, no ABC store may sell any alcoholic beverage which has not been approved by the  
 30 Commission for sale in this State.

31 (c1) Special Orders; Fee. – Through the process established by rule of the Commission for  
 32 special orders of spirituous liquor that is not on the list approved by the Commission, ABC stores  
 33 shall allow the purchase of individual bottles of spirituous liquor through that process. ABC  
 34 stores may sell in store any bottles it receives in excess of what was purchased by the requesting  
 35 customer. The Commission may establish and charge a fee to a customer placing a special order  
 36 in an amount sufficient to cover the actual costs incurred by ABC stores in processing the special  
 37 order.

38 ...."

39 **SECTION 4.(b)** This section becomes effective July 1, 2019, and applies to special  
 40 orders placed on or after that date.

#### 41 42 **PART V. LOCAL ABC BOARDS/ALLOW DELIVERY FEE**

43 **SECTION 5.(a)** G.S. 18B-701(a) reads as rewritten:

44 "(a) Powers. – A local board shall have authority ~~to~~to do all of the following:

- 45 (1) Buy, sell, transport, and possess alcoholic beverages as necessary for the  
 46 operation of its ABC stores;~~stores.~~ If a local board provides delivery of  
 47 spirituous liquor to a mixed beverages permittee, the local board may charge  
 48 a fee to the permittee sufficient to cover the actual costs incurred by the local  
 49 board in making the delivery.
- 50 (2) Adopt rules for its ABC system, subject to the approval of the  
 51 ~~Commission;~~Commission.

- 1 (3) Hire and fire employees for the ABC ~~system;~~system.  
 2 (4) Designate one employee as manager of the ABC system and determine his  
 3 ~~responsibilities;~~responsibilities.  
 4 (5) Require bonds of employees as provided in the rules of the  
 5 ~~Commission;~~Commission.  
 6 (6) Operate ABC stores as provided in Article 8;~~8.~~  
 7 (7) Issue purchase-transportation permits as provided in Article 4;~~4.~~  
 8 (8) Employ local ABC officers or make other provision for enforcement of ABC  
 9 laws as provided in Article 5;~~5.~~  
 10 (9) Borrow money as provided in G.S. ~~18B-702;~~18B-702.  
 11 (10) Buy and lease real and personal property, and receive property devised or  
 12 given, as necessary for the operation of the ABC ~~system;~~system.  
 13 (11) Invest surplus funds as provided in G.S. ~~18B-702;~~18B-702.  
 14 (12) Dispose of property in the same manner as a city council may under Article  
 15 12 of Chapter 160A of the General ~~Statutes;~~ and Statutes.

16 ...."

17 **SECTION 5.(b)** This section becomes effective July 1, 2019, and applies to  
 18 deliveries made on or after that date.

19  
 20 **PART VI. ALLOW LOCAL GOVERNMENT OPTION/ABC STORE SALES ON**  
 21 **SUNDAY**

22 **SECTION 6.(a)** G.S. 18B-802(b) reads as rewritten:

23 "(b) Days. – No ABC store shall be open, and no ABC store employee shall sell alcoholic  
 24 beverages, ~~on any Sunday,~~ New Year's Day, Fourth of July, Labor Day, Thanksgiving Day, or  
 25 Christmas Day. Except as otherwise provided under G.S. 153A-145.8 or G.S. 160A-205.4, no  
 26 ABC store shall be open, and no ABC store employee shall sell alcoholic beverages, on any  
 27 Sunday. A local board may otherwise determine the days on which its stores shall be closed."

28 **SECTION 6.(b)** Article 6 of Chapter 153A of the General Statutes is amended by  
 29 adding a new section to read:

30 **"§ 153A-145.8. Allow ABC stores to operate on Sunday.**

31 If a county operates at least one ABC store, the county may adopt an ordinance allowing  
 32 ABC stores under the operation of the county to be open and selling alcoholic beverages on  
 33 Sundays. A county must consult with its county ABC board prior to adopting an ordinance under  
 34 this section."

35 **SECTION 6.(c)** Article 8 of Chapter 160A of the General Statutes is amended by  
 36 adding a new section to read:

37 **"§ 160A-205.4. Allow ABC stores to operate on Sunday.**

38 If a city operates at least one ABC store, the city may adopt an ordinance allowing ABC  
 39 stores under the operation of the city to be open and selling alcoholic beverages on Sundays. A  
 40 city must consult with its city ABC board prior to adopting an ordinance under this section."

41 **SECTION 6.(d)** This section becomes effective July 1, 2019.

42  
 43 **PART VII. ABC STORES/ALLOW IN-STORE SPIRITUOUS LIQUOR TASTINGS**

44 **SECTION 7.(a)** G.S. 18B-1114.7(a) reads as rewritten:

45 "(a) Authorization. – The holder of a supplier representative permit, brokerage  
 46 representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous  
 47 liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at  
 48 ABC stores where the local ABC board has approved the tasting, trade shows, conventions,  
 49 shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local  
 50 fund-raisers, and other similar events approved by the Commission.

51 **SECTION 7.(b)** G.S. 18B-301(f)(1) reads as rewritten:

- 1           "(1) Any person to consume fortified wine, spirituous liquor, or mixed beverages
- 2           or to offer such beverages to another person at any of the following places:
- 3           a.       ~~On~~Unless a consumer tasting authorized by G.S. 18B-1114.7 is being
- 4           conducted, on the premises of an ABC store.
- 5           b.       Upon any property used or occupied by a local board.
- 6           c.       On any public road, street, highway, or sidewalk, unless a consumer
- 7           tasting authorized by G.S. 18B-1114.7 is being conducted."

8           **SECTION 7.(c)** This section becomes effective July 1, 2019.

9  
10 **PART VIII. RULES**

11           **SECTION 8.** The Alcoholic Beverage Control Commission shall amend its rules  
12 consistent with the provisions of this act.

13  
14 **PART IX. EFFECTIVE DATE**

15           **SECTION 9.** Except as otherwise provided, this act is effective when it becomes  
16 law.